

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

HIGH TECH HIGH,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012040826

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On April 19, 2012, High Tech High (HTH) filed a Due Process Hearing Request (complaint), naming Parent on Behalf of Student (Student). Pursuant to Student's requests for continuance, the hearing on this complaint is set for September 25 through 27, 2012. On September 14, 2012, HTH filed a Motion to Amend the Due Process Hearing Request (amended complaint). Student filed an opposition on September 17, 2012.

APPLICABLE LAW

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

DISCUSSION

HTH's initial complaint requests a determination of whether Student's request for Independent Educational Evaluations (IEE's) was premature, and whether the six assessments conducted by HTH in October and November 2011, were appropriate and in accordance with applicable law. HTH moves to amend its complaint to add one issue to determine whether the offer of placement set forth in Student's Individual Educational Plans (IEP's) of September 22, 2011, November 17, 2011, January 27, 2012 and June 14, 2012, was appropriate and can be implemented in its entirety without parental consent.

Student's opposition presents several contentions which are without merit. While HTH's motion leaves little time for determination prior to hearing, it is not statutorily

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

untimely, nor does the request to amend require Student's consent. Further, it is noted Student previously made several requests for continuance which have resulted in the current delays in hearing.

ORDER

1. High Tech High's motion to amend its complaint is granted.
2. The existing prehearing conference date and due process hearing dates are vacated.
3. The due process timeline shall recommence upon the filing of this order; and OAH shall notify the parties of new dates for mediation, pre-hearing conference and due process hearing dates.

IT IS SO ORDERED.

Dated: September 17, 2012

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings